

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/708,897 Confirmation No. 2896
Applicant : Bruce W. TRYON
Filed : 30 March 2004
TC/A.U. : 3661
Examiner : Christine M. BEHNCKE
Title : HYBRID ELECTRIC VEHICLE ENERGY MANAGEMENT SYSTEM
Docket No. : 5704-00209
Customer No. : 26659

INTERVIEW SUMMARY

17 July 2008

**Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

On **16 July 2008**, the undersigned participated in a telephonic interview with the Examiner and the Supervisory Examiner, Mr. Thomas G. BLACK, during which claims **1, 21-23** and **47** were discussed.

In respect of claims **21-23**, the undersigned reiterated the argument presented in the Request for Reconsideration of Finality of Office Action filed on **7 May 2008**, and addressed the points raised by the Examiner in the Advisory Action mailed on **4 June 2008**.

The Examiner stated that the addition of the limitation causing "a fuel flow to said power generator and generating power with said power generator responsive thereto" to claims **21-23**, the change in dependency of claims **21** and **22**, and the resulting exclusion of the limitations of claim **19** from claims **22** and **23**, changed the scope of the claims and thereby necessitated new search and new grounds of rejection.

In response to the Examiner's inquiry as to why this limitation was added, the undersigned stated that the addition of the limitation of "causing a fuel flow to said power generator and generating power with said power generator responsive thereto" was to provide proper antecedence for the operations of either decreasing or shutting off fuel flow, so as to improve clarity. The undersigned further stated that this limitation was inherent in the original claims. The Examiner stated that the explicit addition of this limitation necessitated a modification of the ground of rejection so as to provide for a reference that explicitly provided for this limitation. The Examiner asserted that Tamai et al. was necessary to provide for this limitation, hence the change in the grounds of rejection of claims **21** and **22** from §102(e) to §103(a). Relying upon this assertion by the Examiner, the undersigned reached agreement with the Examiner as to claims **21** and **22**¹.

In respect of claims **22** and **23**, the Examiner asserted that the exclusion of the limitations of claim **19** as a result of the change in dependency of claim **22**, and as a result of rewriting claim **23** in independent form -- and further, in respect of claim **21**, the exclusion of the limitation of claim **18** from claim **21** by the change in its dependency, -- broadened the scope of these claims, thereby necessitating a new ground of rejection. In reply, the undersigned stated that because the rejections of claims **21** and **22** were under §102(e), the elimination of a limitation therefrom should not change the ground of rejection, because asserted §102(e) reference would still purportedly have all the remaining claim limitations. Furthermore, in respect of claim **23**, the undersigned stated that there was no antecedent basis for the term "said previously stored information" in original claim **19**, so that the further limitation of this term by claim **19** would not have patentable weight because the element being further limited by claim **19**, i.e. "previously stored information", was not included in base claim **12** upon which both claims **19/12** and **23/22/19/12** depended.

¹ However, subsequent to the Interview, the undersigned again reviewed the Vickers reference and found support for this added limitation in paragraphs [0002] and [0014], so that in hindsight, it would appear that there was no need for the Examiner to have changed the grounds of rejection for claims **21** and **22**. Furthermore, since both Vickers and Tamai et al. disclose this limitation ("causing a fuel flow to said power generator and generating power with said power generator responsive thereto") added to claim **23**, and these references were already used to reject claim **23** under §103(a), there was no need to change the ground of rejection of claim **23** because of the addition of this limitation.

Furthermore, the undersigned stated that the Kamen et al. reference that was included in the new ground of rejection of claim **23** was not necessitated by the amendment of claim **23** because the Kamen et al. could have been asserted against claim **23** in its original form, and was not necessitated by either the addition of the limitation “causing a fuel flow to said power generator and generating power with said power generator responsive thereto”, or the exclusion therefrom of the (indefinite) limitation of claim **19**. The participants could not reach agreement in respect of claim **23**.

The participants briefly discussed claims **1** and **47** in view of Vickers, reiterating arguments expressed in the Office Actions and Amendments of record, but no agreement could be reached.

Summary and Conclusions

Claims **1**, **21-23** and **47** were discussed. Agreement was reached as to claims **21** and **22**. Agreement was not reached as to claims **1**, **23** and **47**.

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Respectfully Submitted,
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